

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ESTATE OF JAMES OSCAR SMITH and
HEBREW HUSTLE, INC.,

Case No. 14-cv-2703 (WHP)(RLE)

Plaintiffs,

v.

CASH MONEY RECORDS, INC.,
UNIVERSAL REPUBLIC RECORDS,
an unincorporated division of UMG
RECORDINGS, INC., UNIVERSAL
MUSIC GROUP DISTRIBUTION, CORP.,
EMI MUSIC PUBLISHING MANAGEMENT,
LLC, UNIVERSAL MUSIC-MGB NA, LLC,
WARNER/CHAPPELL MUSIC, INC.,
SONY/ATV MUSIC PUBLISHING, LLC,
AUBREY DRAKE GRAHAM p/k/a DRAKE,
MATTHEW JEHU SAMUELS p/k/a
BOI-1DA, JORDAN EVANS, APPLE, INC.,
and AMAZON DIGITAL SERVICES, INC.,

AFFIDAVIT

Defendants.

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STATE OF CONNECTICUT)
COUNTY OF FAIRFIELD) ss.:

MICHAEL CUSCUNA, being duly sworn, deposes and says:

1. I am the founder and President of Mosaic Records, a record label specializing in the reissue of classic jazz recordings. Prior to founding Mosaic Records I hosted several radio programs first at the University of Pennsylvania's non-commercial powerhouse WXPB, later moving to Metromedia's WMMR and then on to one of New York's early "Album Oriented Rock" radio stations, WABC-FM. As well I have written extensively about jazz music for **Down Beat** and **Jazz and Pop Magazine** and served as a staff producer for Atlantic Records recording such jazz legends such as Dave Brubeck. I have worked on reissuing classic jazz albums from such labels as Elektra, Impulse!, Arista and Blue Note.



2. I am very familiar with the Jimmy Smith album, *Off The Top* released on the Elektra/ Musician label in July of 1982, particularly the last track, "Jimmy Smith Rap".

3. Bruce Lundvall, my very good friend and colleague for many years was the President of Elektra Records and the Elektra/Musician label and personally "A&R'ed" all the creative elements of *Off The Top*, specifically the selection of compositions to be recorded for *Off The Top*.

4. It is personally known to me from working with Bruce Lundvall, on and off from 1975 until his death earlier this year, that he encouraged all of his jazz artists to end their albums with an original spoken word piece to serve as their album's coda. I know this because I worked with Bruce on two albums during his tenure at Elektra from 1981-1984, namely Woody Shaw's *Master of the Art* and Dexter Gordon's *American Classic*. In both instances, he asked me to obtain a short original spoken word monologue/composition from Woody and Dexter respectively, in their own words talking about their Albums to close out their Album. Not to put too fine a point to it, but the suggestion that someone other than Jimmy Smith authored "Jimmy Smith Rap" would have Bruce rolling in his grave.

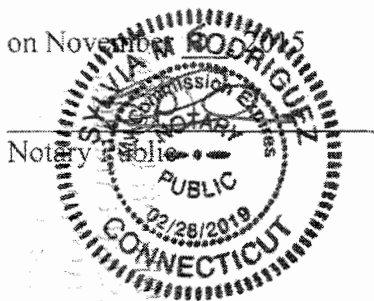
The foregoing is true and correct. Executed on November 5, 2015.

Sworn to before me

Michael Cuscuna

on November 5, 2015

Notary Public



A handwritten signature in dark ink, appearing to read "Michael Cuscuna".

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Defendants.
-----X

STATE OF Colorado)
COUNTY OF Eagle)

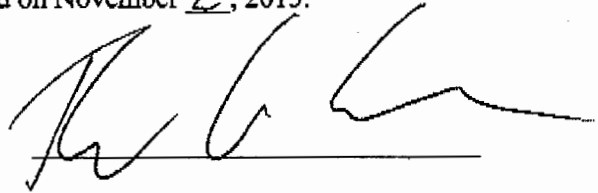
ROBERT EATON, being duly sworn, deposes and says:

1. I am a music industry professional, namely a recording engineer and musician.
2. In or about early 1982 I served as the assistant engineer on a series of recording sessions for the James Oscar Smith p/k/a "Jimmy Smith" album, *Off The Top* which was subsequently released on the Elektra Musicians imprint of Elektra Records in or about July of 1982.
3. The recording sessions for *Off The Top* took place in Studio A at the long shuttered

legendary Generation Sound recording studio, then located at 1650 Broadway in the heart of New York's recording studio district, a studio popular with many established jazz artists who recorded their albums there.

4. I was present at the recording session where Jimmy Smith originated and created the composition that soon became known as "Jimmy Smith Rap".

The foregoing is true and correct. Executed on November 2, 2015.



Robert Eaton

Sworn to before me
on November 2nd, 2015

Tunde C. Lorenti
Notary Public

TUNDE C. LORENTI
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20054038359
MY COMMISSION EXPIRES 10/10/2017